

## **1.0 PURPOSE AND NEED FOR THE CONSIDERED ACTION**

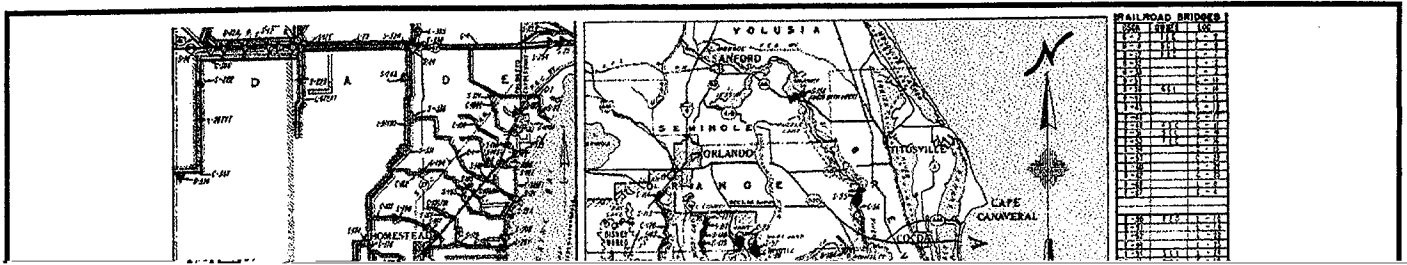
### **1.1 Project Authorization**

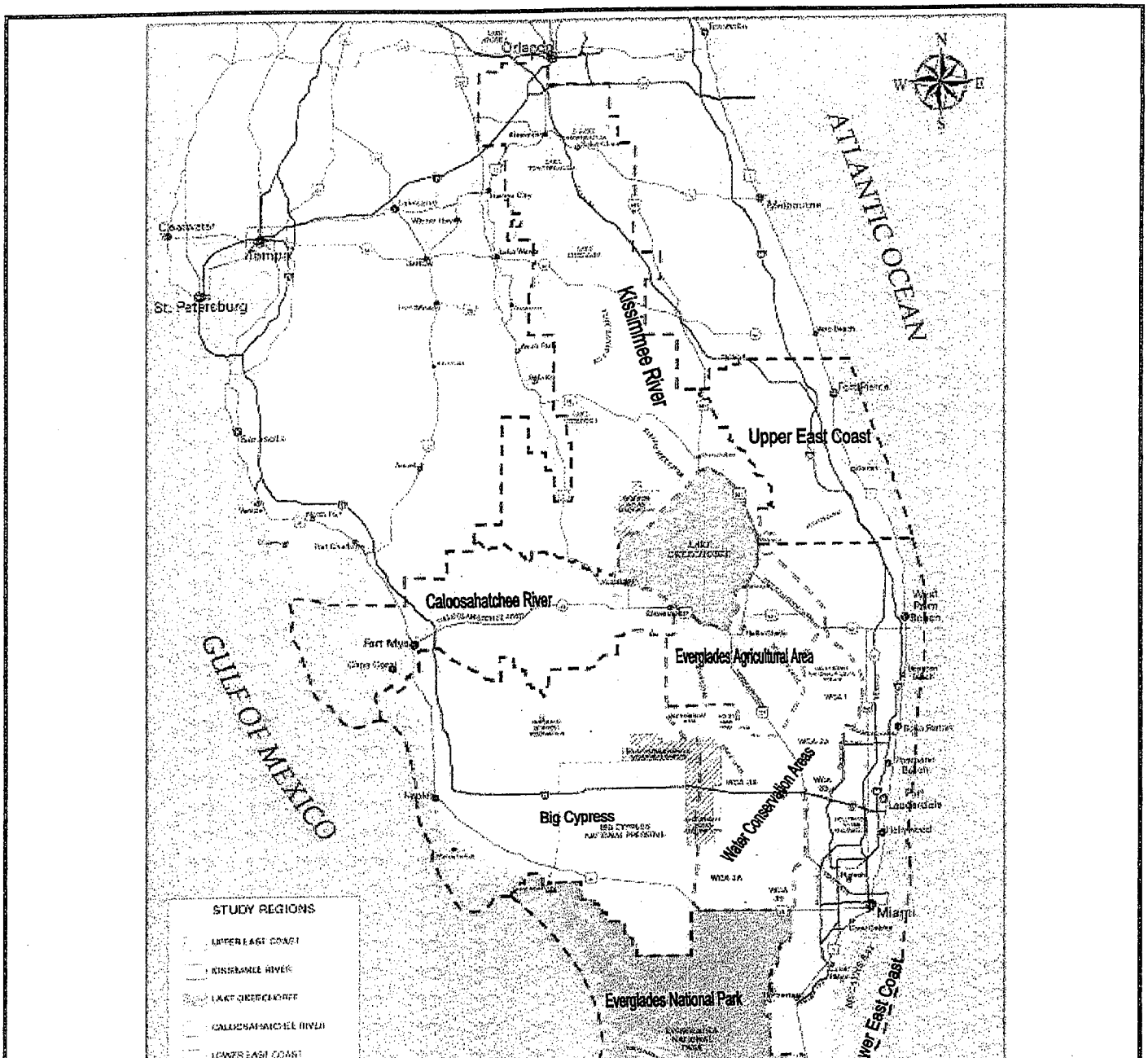
A minimum schedule of water deliveries from the Central and Southern Florida (C&SF) Project to the Everglades National Park (ENP) was authorized by Congress in 1969 in Public Law (PL) 91-282. Section 1302 of the Supplemental Appropriations Act of 1984 (PL 98-181), passed in December 1983, authorized the Corps, with the concurrence of the National Park Service (NPS) and the South Florida Water Management District (SFWMD), to deviate from the minimum delivery schedule for two years in order to conduct an Experimental Program of water deliveries to improve conditions within the ENP. Section 107 of PL 102-104 amended PL 98-181 to allow continuation of the Experimental Program until modifications to the C&SF Project authorized by Section 104 of the ENP Protection and Expansion Act of 1989 (PL 101-229) were completed and implemented.

Test Iteration 7 of the Experimental Program of Modified Water Deliveries to ENP (herein referenced as the 1995 Base) was initiated in October 1995 (USACE 1995). In February 1999, the U.S. Fish and Wildlife Service (USFWS) issued a Final Biological Opinion (BO) (Appendix D) under provisions of the Endangered Species Act (ESA), which concluded that the provisions of Test 7, Phase I were jeopardizing the continued existence of the Cape Sable seaside sparrow (CSSS). They further concluded that ultimate protection for the species would be achieved by implementing the Modified Water Deliveries to ENP (MWD) project (PL 101-229) as quickly as possible. In the opinion of the USFWS, the USFWS BO presented a Reasonable and Prudent Alternative (RPA) to Test 7, Phase I of the Experimental Program that would avoid jeopardizing the CSSS during the interim period leading up to completion of the MWD project. The USFWS RPA recommended that certain hydrologic conditions be maintained in the sparrow's breeding habitat to avoid jeopardizing the continued existence of the species. In January 2000, the Experimental Program was terminated, and in March 2000, Test 7, Phase I was replaced by the current Interim Structural and Operational Plan (ISOP) (USACE 2000). The ISOP was designed to meet the conditions of the USFWS RPA included in the USFWS BO from March 2000 until implementation of the Interim Operational Plan (IOP). The Corps was recently authorized by CEQ to conduct emergency operations under ISOP 2001 for the 2001 nesting season. The ISOP will be in place until completion of the EIS and a Record of Decision (ROD) is signed for the Interim Operational Plan (IOP). Once the ROD is signed, the IOP will replace the ISOP and continue USFWS RPA protective measures for the CSSS until implementation of the MWD project.

### **1.2 Project Location**

The C&SF system-wide project is located in South Florida and includes portions of several counties as well as portions of the ENP, Big Cypress National Preserve, and adjacent areas (Figure 1). The Corps' June 1992 General Design Memorandum (GDM) on, "Modified Water Deliveries to ENP," defines the project boundary as Shark River Slough and that portion of the C&SF Project north of S-331 to include Water Conservation Area 3 (WCA 3). The major study areas of the C&SF project are shown in Figure 2.





### 1.3 Project Purpose

On 19 February 1999, the USFWS issued a Final USFWS BO for the MWD project, Experimental Water Deliveries Program, and C-111 Project under provisions of the Endangered Species Act of 1973, as amended. The USFWS BO concluded that continuation of Test 7, Phase I operations would cause adverse modification of CSSS critical habitat and would jeopardize the continued existence of the CSSS. The operating criteria for Test 7 were defined in a concurrency agreement between the Corps, ENP, and the SFWMD in October 1995. Test 7 was to be implemented in two phases. Phase I consisted of operating the structures in place at that time until Phase II structures could be completed. The ultimate goal

Some of the key environmental documents relevant to the proposed action are the Final ISOP EA, Final SEIS on the 8.5 SMA and Test 7 Summary. The USACE is currently operating under the ISOP. The Final Environmental Assessment (EA) for the plan was issued in March 2000. A critical component to implementing the actions recommended in the USFWS BO is the protection of the 8.5 Square Mile Area (SMA), a residential area located to the east of Northeast Shark River Slough (NESRS). A Final SEIS was prepared and distributed in August 2000 for implementation of a recommended plan which consists of perimeter and interior levees as well as a seepage canal. A new proposed pumping structure (S-357) located at the southern terminus of the seepage canal would discharge seepage water into a treatment area located south of Richmond Drive in the C-111 project area. The ROD was signed on December 6, 2000.

<b>Date</b>	<b>Action</b>
1983	Authorization of the Experimental Program
1989	ENP Protection and Expansion Act of 1989
1990	Draft General Design Memorandum (GDM) on Modified Water Deliveries
1990	Biological Opinion on Modified Water Deliveries
1992	Final GDM on Modified Water Deliveries
1993	Implement Test 6 of the Experimental Program
1994	C-111 Reevaluation Report
1995	Biological Opinion on Test 6 of the Experimental Program
1995	Extension of Test 6
1995	Implement Test 7, Phase I of the Experimental Program
1995	Initiate Test 7 Hydrologic and Ecological Monitoring
1997	USFWS Request Corps to reinitiate Section 7 consultation
1998	Implement 1998 Emergency Deviation from Test 7, Phase I
1999	Biological Opinion on the Experimental Program, Modified Water Deliveries, and C-111 Project
1999	Implement Emergency Deviation from Test 7, Phase I
2000	Implement ISOP 2000 Emergency Deviation
2000	8.5 SMA Plan SEIS and ROD
2001	Completion of Test 7 Hydrologic and Ecological Monitoring Report
2001	Implementation of ISOP 2001 Emergency Deviation

As part of the interagency agreement that accompanied approval of Test Iteration 7 of the Experimental Program of Water Deliveries to ENP, the USACE participated in a monitoring program to determine the ecological and hydrologic benefits of the program. The monitoring program evaluated changes in hydrologic conditions beginning in November 1995 through May 2000. In addition, ecological factors that included freshwater fish and macroinvertebrates; mangrove resident fish; wading birds; CSSS; and American crocodile were monitored to determine the effects of the Test 7 Experimental Program on natural resources in the ENP. The approved monitoring plan and associated responsibilities for each agency are included in Appendix I of this document. The USACE prepared a summary of the monitoring efforts for inclusion in the Draft EIS.

At the December 17, 1999 emergency meeting of the SFWMD Governing Board, the USACE presented the ISOP, which was prepared to modify hydrologic conditions in ENP to avoid jeopardizing the CSSS. In a letter to the USACE dated January 20, 2000, the SFWMD stated:

*.. "The ISOP explicitly represents a departure from Test Iteration 7 of the Experimental Program of Water Deliveries to Everglades National Park operating criteria: consequently, the three-party concurrency agreement established for Test Iteration 7 cannot adequately facilitate implementation of the ISOP. Based upon your briefing that the requirements of the biological opinion for the CSSS now supercede the management objectives of the Experimental Program, we realize the Experimental Program has been effectively terminated."*

At that point, Test Iteration 7 of the Experimental Program was terminated and replaced by the ISOP.

### **1.5 Scoping**

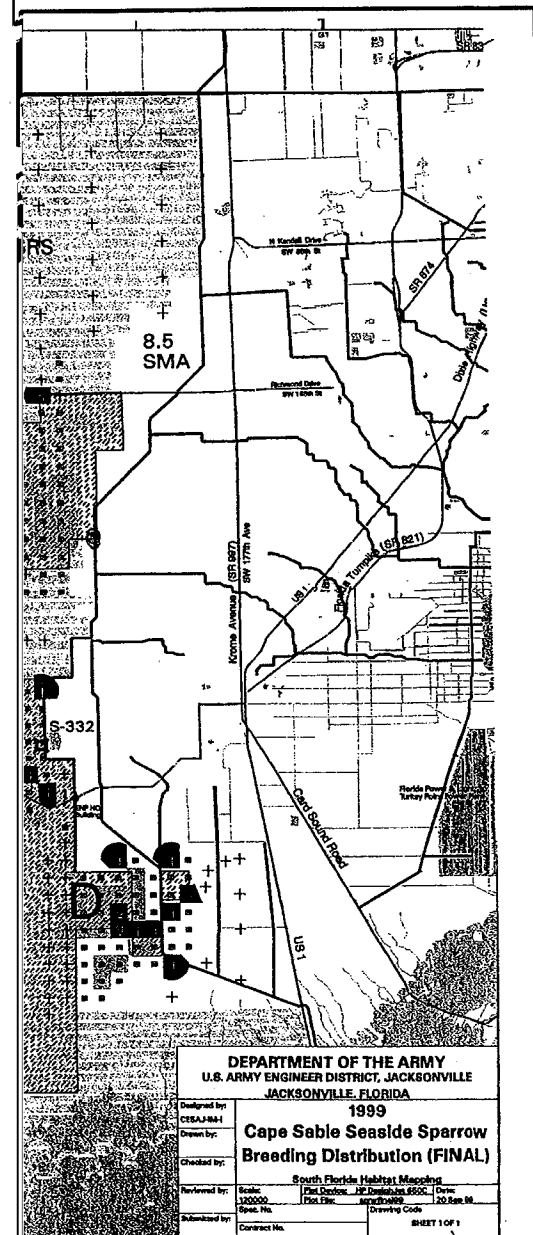
A Scoping Letter was issued to various stakeholders and interested parties on October 26, 1999 and comments were received through November 30, 1999. A Public Scoping Meeting was held in Homestead, Florida on November 16, 1999 to elicit comments and determine issues to be resolved during the NEPA process. Interagency meetings were held on April 10, 2000 and May 15, 2000 to discuss project operations and to finalize alternatives to be evaluated in the EIS. In addition, the Corps posted hydrologic model runs and hydrographs of potential alternatives on its website for review by all interested parties. An additional Public Meeting was held in Homestead, Florida on June 7, 2000 and January 30, 2001 to elicit public comment and inform the public of project developments.

In accordance with the Council for Environmental Quality (CEQ) letter dated December 25, 2000, an additional public workshop was held January 30, 2001 to relay to the public that Phase 1 of the IOP preferred alternative will be the ISOP for 2001.

A copy of the Scoping Letter and Notice of Intent (NOI) to prepare an EIS are included in Appendix A, and a copy of the mailing list is included in Appendix B.

Comments received from interested parties, included state and federal agencies as well as members of the public, in response to the scoping letter are included in Appendix C. Both the Florida Fish and Wildlife Conservation Commission (FFWCC) and Florida Department of Environmental Protection (FDEP) expressed concerns about potential effects of the project on the ecological conditions of the WCAs, which are managed by the state. In particular, the agencies were concerned that storage of additional water in these areas to reduce releases through the S-12 structures could cause loss of valuable habitat. The agencies also expressed concerns about freshwater pulses into estuary systems. The FFWCC provided a number of recommendations to be considered during the selection of the final alternative plan and requested that the USACE coordinate with them during the selection process.

A letter from the Natural Resources Defense Council (NRDC) recommended that technical staff members from ENP, USFWS, and SFWMD be included in the formulation of the IOP and EIS. The NRDC also provided recommendations regarding the analysis of regulatory releases, mitigation, impacts to private property, and coordination with other interest groups. A number of potentially affected property owners also commented regarding adequate compensation for their property from the National Park Service acquisition process associated with the ENP Expansion.



### Sparrow Population Locations

### Interim Operating Plan for Protection of the Cape Sable Seaside Sparrow

Not to Scale

Drawn by:

June 2000

Approved By:

00-0377

Figure 3